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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/943,483

08/29/2001

Henry Wu

HENRYWU.007A

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09/11/2006

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EXAMINER

DAVIS, CASSANDRA HOPE

ART UNIT

PAPER NUMBER

3611

DATE MAILED: 09/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/943,483

Applicant(s)

WU, HENRY

Examiner

Cassandra Davis

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 7-9, 12-21, 32 and 33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 7-9, 12, 13, 15-21, 32 and 33 is/are rejected.
- 7) ☐ Claim(s) 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

1. In view of the appeal brief filed on May 30, 2006, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:



**LESLEY D. MORRIS**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3600**

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-9, 12, 13, 15-21, 32, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fitzgerald (U.S. Patent No. 1,847,605) in view of Neal (U.S. Patent No. 5,779,317).

Fitzgerald shows in figures 10 and 12 a seat fastening device for a chair comprising a back rest portion (25), a main body comprises a panel (24) that defines a front surface and a rear surface, a first retainer (8) attached to a first edge and a second retainer (7) attached to a second edge for attaching the main body to the back rest portion. The first retainer (8) extends from the first edge of the main body, wherein the first retainer has a hook shape (see figures 3-5 which show that the first retainer is hook-shaped) that is biased (biased by the spring 12) towards the rear surface of the main body. The second retainer (7) extends from the second edge of the main body, wherein the second retainer has a hook shape (see figures 3, 4, and 7 which show that the second retainer is hook-shaped) that

is biased (figures 3,4, and 7 show that the hook includes an inwardly biased portion) towards the rear surface of the main body. Fitzgerald shows in figure 12 that the panel (24) connects the first and second retainers. The first and second retainers are considered to be flexible since they are made out of sheet metal which is known to be flexible.

Fitzgerald does not disclose whether the chair is a folding chair and attaching padding to the main body.

Neal shows in figure 1-9 the idea of removably attaching a padded portion (11) to a seat portion (3) and a padded portion (30) to a back rest portion (8), placing a message on the padded portion (picture of flowers or other message) and making the chair in the form of a folding chair, see column 1, lines 4-6.

In view of the teachings of Neal it would have been obvious to one in the art to modify Fitzgerald by making the chair in the form of a folding chair since this would allow the chair to be stored and transported in an easier and more convenient manner.

In regard to claim 8, it would have been an obvious manner of design choice to make the retainers from plastic since the applicant fails to define

any advantage to making the retainers from plastic and the metal retainers taught by Fitzgerald would work equally well.

In regard to claim 9, since the applicant does not disclose that making the retainers from plastic solves any stated problem or is for any particular purpose, it appears to making the retainer of any suitable material as taught by Fitzgerald would perform equally well in retaining main body on the backrest.

In regard to claim 12, the padded sign taught by Neal is considered to be contoured to the backrest portion of the chair.

In regard to claim 13, as broadly defined, the surface upon which the padding (60,62) is attached is considered to be the "rear surface".

In regard to claim 15, the edges upon which the retainers (7,8) taught by Fitzgerald are attached are considered to be the upper and lower edges, see figure 12.

In regard to claims 18 and 21, Fitzgerald does not disclose the use of a plurality of chairs. Neal discloses in column 1, lines 35-50 and column 4, lines 23-30 that a plurality of the folding chairs are manufactured. Further, it is conventional in the art that a plurality of folding chairs are used together, i.e. church halls, school auditoriums, birthday parties, weddings, etc. In

view of the teachings of Neal it would have been obvious to one in the art to modify Fitzgerald by using a plurality of the folding chairs together since this would allow a large group of people to be provided with seating in a more convenient and less expensive manner.

In regard to claim 18, the folding chairs "can be" stacked together.

In regard to claims 32 and 33, the first edge of the backrest portion and the first edge of the main body of Fitzgerald are considered to be oriented towards the top of the backrest portion and the second edge of the backrest portion and the second edge of the main body of Fitzgerald are considered to be oriented towards the bottom of the backrest portion, see figure 12.

### ***Response to Arguments***

3. Applicant's arguments filed May 30, 2006 have been fully considered but they are not persuasive.
4. The applicant argues that in Fitzgerald, the sign 24 is not dimensioned to conform to the shape of the backrest 25. The examiner point out the chair is not positively claimed. In addition, the sign 24 is adapted to conform to dimension of the backrest of some chairs. Since the main body is a C-shaped member, the examiner contends that it is not

adapted to conform to every chair only chairs having a backrest which partially supports to the back or a occupant.

5. In addition, the applicant argues that the springs and hooks assembly is a completely separate structure from the main body panel (sign 24), thus the hook 7 and 8 cannot extend from the edge of the sign. Since the applicant does not claim the retainer and the main body are unitary or one-piece, the hook and spring assembly taught by Fitzgerald meets the limitation of the claim by extending from the upper and lower edges of the main body.

6. Neal is cites to show a padded backrest which can be removably attached to the back support of folding chair.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the




THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cassandra Davis whose telephone number is 571-272-6642. The examiner can normally be reached on Monday-Friday 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Cassandra Davis  
Primary Examiner  
Art Unit 3611

CD  
September 5, 2006